

OCT 02 2015

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

In accordance with the memorandum opinion entered this day, it is hereby

ADJUDGED AND ORDERED

as follows:

1. The government's motion to dismiss (ECF No. 414), as to the claim under 28 U.S.C. § 2255 alleging that the defendant asked his attorney to file a notice of appeal and the attorney failed to do so, is **DENIED**;
2. This matter is **REFERRED** to United States Magistrate Judge Robert S. Ballou pursuant to 28 U.S.C. § 636(b)(1)(B) for conduct of appropriate proceedings, and for the submission of a report setting forth findings of fact, conclusions of law, and a recommended disposition of this claim; and
3. Petitioner's remaining claims under § 2255 are taken under advisement pending the ruling on the ineffective assistance claim; and
4. The clerk **SHALL** arrange for the appointment of counsel to represent the petitioner in this § 2255 action, pursuant to 18 U.S.C.A. § 3006A(a)(2)(B).

ENTER: This 20 day of September, 2015.

Chief United States District Judge